

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

RAYMOND SOLIZ, #2179672,	§	
	§	
Petitioner,	§	
	§	
v.	§	Case No. 6:21-cv-16-JDK-JDL
	§	
DIRECTOR, TDCJ-CID,	§	
	§	
Respondent.	§	

**ORDER ADOPTING REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE**

Petitioner Raymond Soliz, a Texas Department of Criminal Justice inmate proceeding pro se, filed this federal petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. The petition was referred to United States Magistrate Judge John D. Love for findings of fact, conclusions of law, and recommendations for disposition.

On July 9, 2021, Judge Love issued a Report and Recommendation recommending that the Court dismiss this petition with prejudice as barred by the applicable statute of limitations and that a certificate of appealability be denied. Docket No. 23. A copy of this Report was mailed to Plaintiff at the TDCJ Clements Unit, where public records confirm that he still resides. *See* Tex. Dep't of Crim. Just. Offender Info. Search, <https://offender.tdcj.texas.gov/OffenderSearch/> (last visited Aug. 18, 2021). That mailing was returned to the Court with notes on the envelope indicating that prison staff called Petitioner to collect the mailing daily from July 20, 2021, through July 23, 2021, and Petitioner refused to accept the mail. Docket No. 25. A party's refusal to accept the Court's mail does not avoid consideration of a Report

recommending disposition of a case. *See Rodriguez v. Perez*, No. CIV.A. B-09-255, 2011 WL 147713, at *1 (S.D. Tex. Jan. 18, 2011) (adopting Report and Recommendation where pro se plaintiff refused to accept mail delivery of Report); *Hall v. ADVO, Inc.*, No. 3:04-cv-2644-L, 2007 WL 210357 at *2 (N.D. Tex. Jan. 26, 2007) (“One has a choice to accept or reject receipt of certified mail; however, if one refuses or fails to accept the certified mail, he must face the legal consequences of such refusal or failure.”).


This Court reviews the findings and conclusions of the Magistrate Judge de novo only if a party objects within fourteen days of service of the Report and Recommendation. 28 U.S.C. § 636(b)(1). In conducting a de novo review, the Court examines the entire record and makes an independent assessment under the law. *Douglass v. United Servs. Auto. Ass’n*, 79 F.3d 1415, 1430 (5th Cir. 1996) (en banc), *superseded on other grounds by statute*, 28 U.S.C. § 636(b)(1) (extending the time to file objections from ten to fourteen days).

Here, Petitioner did not object in the prescribed period. The Court therefore reviews the Magistrate Judge’s findings for clear error or abuse of discretion and reviews the legal conclusions to determine whether they are contrary to law. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989), *cert. denied*, 492 U.S. 918 (1989) (holding that, if no objections to a Magistrate Judge’s Report are filed, the standard of review is “clearly erroneous, abuse of discretion and contrary to law”).

Having reviewed the Magistrate Judge’s Report and the record in this case, the Court finds no clear error or abuse of discretion and no conclusions contrary to

law. Accordingly, the Court hereby **ADOPTS** the Report and Recommendation of the United States Magistrate Judge (Docket No. 23) as the findings of this Court. This petition for habeas corpus is hereby **DENIED** and this action is **DISMISSED WITH PREJUDICE** as untimely. The Court **DENIES** a certificate of appealability.

So **ORDERED** and **SIGNED** this 18th day of **August, 2021**.



JEREMY D. KERNODLE
UNITED STATES DISTRICT JUDGE